BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
	)	
	)	
RONALD WEMPEN, M.D.	)	**Case No. 09-2011-217227**
	)	
Physician's and Surgeon's Certificate No. G 18070	)	
	)	
	)	
. Respondent.	)	
	)	

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on October 31, 2013.

IT IS SO ORDERED June 25, 2013.

MEDICAL BOARD OF CALIFORNIA

By: Kimberly Kirchmeyer

Kimberly Kirchmeyer
Interim Executive Director

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Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **RONALD WEMPEN, M.D.** **14795 Jeffrey Road #101** **Irvine, CA 92618** **Physician's and Surgeon's Certificate No. G18070** Respondent.	Case No. 09-2011-217227 OAH Case No. 2012090799 **STIPULATED SURRENDER OF LICENSE AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

PARTIES

1. Linda K. Whitney (complainant) is the Executive Director of the Medical Board of California. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Martin W. Hagan, Deputy Attorney General.

2. Ronald Wempen, M.D. (respondent) is represented in this proceeding by attorney Raymond J. McMahon, Esq., whose address is 1851 E. First Street, Suite 810, Santa Ana, CA 92705-4041.

3. On or about March 19, 1970, the Medical Board of California issued Physician's and Surgeon's Certificate No. G18070 to Ronald Wempen, M.D. (respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 09-2011-217227 and will expire on February 28, 2014, unless renewed.

JURISDICTION

4. On May 29, 2012, Accusation No. 09-2011-217227 was filed before the Medical Board of California (Board), Department of Consumer Affairs. A true and correct copy of the Accusation and all other statutorily required documents were properly served on respondent on May 29, 2012. Respondent timely filed his Notice of Defense contesting the Accusation. On April 10, 2013, First Amended Accusation No. 09-2011-217227 was filed and properly served on respondent, and is currently pending against respondent.

5. A true and correct copy of the First Amended Accusation No. 09-2011-217227 is attached hereto as Exhibit "A" and incorporated herein by reference.

ADVISEMENT AND WAIVERS

1. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in First Amended Accusation No. 09-2011-217227. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Disciplinary Order.

2. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation No. 09-2011-217227; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

3. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

4. Respondent does not contest that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in First Amended Accusation No. 09-2011-217227 and that he has thereby subjected his Physician's and Surgeon's Certificate No. G18070 to disciplinary action.

5. Respondent agrees that his Physician's and Surgeon's Certificate No. G18070 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

6. Respondent further agrees that if he ever petitions for reinstatement of his Physician's and Surgeon's Certificate No. G18070, or if an accusation is filed against him before the Medical Board of California, all of the charges and allegations contained in First Amended Accusation No. 09-2011-217227 shall be deemed true, correct, and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving respondent in the State of California or elsewhere.

7. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate No. G18070 effective October 31, 2013, without further process.

CONTINGENCY

8. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a . . . stipulation for surrender of a license."

9. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Executive Director on behalf of the Medical Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for her consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, respondent fully understands and agrees that he may not withdraw his agreement or seek to

rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

10. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Executive Director on behalf of the Board does not, in her discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

11. This Stipulated Surrender of License and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

12. The parties agree that facsimile copies of this Stipulated Surrender of License and Disciplinary Order, including facsimile signatures of the parties, may be used in lieu of original documents and signatures and, further, that facsimile copies shall have the same force and effect as originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree the Executive Director of the Medical Board may, without further notice to or opportunity to be heard by respondent, issue and enter the following Disciplinary Order on behalf of the Board:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G18070 heretofore issued to respondent Ronald Wempen, M.D. (respondent) is surrendered and accepted by the Medical Board of California.

1. The effective date of this Decision and Disciplinary Order shall be October 31, 2013.

2. The surrender of respondent's Physician's and Surgeon's Certificate No. G18070 and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against respondent. This stipulation constitutes a record of the discipline and shall become a part of respondent's license history with the Medical Board of California.

3. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Disciplinary Order.

4. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Disciplinary Order.

5. If respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 09-2011-217227 shall be deemed to be true, correct and fully admitted by respondent when the Board determines whether to grant or deny the petition.

6. If respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in First Amended Accusation No. 09-2011-217227 shall be deemed to be true, correct, and fully admitted by respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G18070. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Disciplinary Order of the Medical Board of California.

DATED: June 3, 2013

RONALD WEMPEN, M.D.
Respondent

I have read and fully discussed with respondent Ronald Wempen, M.D., the terms and conditions and other matters contained in this Stipulated Surrender of License and Disciplinary Order. I approve its form and content.

DATED: June 3, 2013

RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 6/3/2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General

MARTIN W. HAGAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 09-2011-217227

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: **RONALD WEMPEN, M.D.** **14795 Jeffrey Road, No. 101** **Irvine, CA 92618** **Physician's and Surgeon's Certificate No. G18070** Respondent.	Case No. 09-2011-217227 OAH Case No. 2012090799 **FIRST AMENDED ACCUSATION**

Complainant alleges:

PARTIES

1. Linda K. Whitney (hereinafter "Complainant") brings this First Amended Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about March 19, 1970, the Medical Board of California issued Physician's and Surgeon's Certificate Number G18070 to Ronald Wempen, M.D. (hereinafter "Respondent"). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2014, unless renewed.

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JURISDICTION

3. This First Amended Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, be publicly reprimanded, or have such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a

reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

". . . ."

6. Section 2242 of the Code states:

"(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

. . . ."

7. Business and Professions Code section 2234.1 provides in pertinent part:

"(a) A physician and surgeon shall not be subject to discipline pursuant to subdivision (b), (c), or (d) of Section 2234 solely on the basis that the treatment or advice he or she rendered to a patient is alternative or complementary medicine, including the treatment of persistent Lyme Disease, if that treatment or advice meets all of the following requirements:

"(1) It is provided after informed consent and a good-faith prior examination of the patient, and medical indication exists for the treatment or advice, or it is provided for health or well-being.

"(2) It is provided after the physician and surgeon has given the patient information concerning conventional treatment and describing the education, experience, and credentials of the physician and surgeon related to the alternative or complementary medicine that he or she practices.

"(3) In the case of alternative or complementary medicine, it does not cause a delay in, or discourage traditional diagnosis of, a condition of the patient.

"(4) It does not cause death or serious bodily injury to the patient.

"(b) For purposes of this section, 'alternative or complementary medicine,' means those health care methods of diagnosis, treatment, or healing that are not generally used but that provide a reasonable potential for therapeutic gain in a patient's medical condition that is not outweighed by the risk of the health care method.

". . . ."

8. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

9. Health and Safety Code section 123110 authorizes a patient or patient representative to inspect or copy the patient's medical records under certain circumstances and further, in part, requires licensed physicians and surgeons to produce to a patient or a patient's representative the patient's medical records within fifteen days after receipt of an appropriate written request.

DISCIPLINE CONSIDERATIONS

10. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on September 23, 1998, an accusation was filed against respondent in a prior disciplinary action entitled *In the Matter of the Accusation against Ronald Reiner Wempen, M.D.*, Medical Board of California Case No. 04-1997-76214 (OAH Case No. L-1998100275). On November 26, 1999, respondent's medical license was revoked, the revocation was stayed, and respondent was placed on probation for five years on various terms and conditions, including successfully completion of the Physician Assessment and Clinical Education Program (PACE) program; successful completion of an education program of not less than forty hours per year, for each year of probation; successful completion of an ethics course; and other standard terms and conditions of probation. In the Stipulated Settlement of the prior disciplinary action, respondent "admitted the allegations in the Accusation that he ha[d] engaged in repeated negligent acts in

violation of Business and Professions Code section 2234(c)." (Stipulated Settlement and Disciplinary Order, at ¶ 9.)[1] The prior discipline involved, among other things, poor record keeping, the failure to order proper laboratories and diagnostic testing, and concerns over respondent utilizing chelation therapy for an alleged "history of heavy-metal toxicity." That decision is now final and is incorporated by reference as if fully set forth herein.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

11. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that respondent was grossly negligent in his care and treatment of patient J.S., as more particularly alleged hereinafter:

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[1] The prior disciplinary action concerned respondent's care of treatment of patient C.M., a 43 year old female who initially presented with complaints of vaginal discharge, gastrointestinal problems and dizziness. The admitted repeated negligent acts were: (1) failing to perform medically appropriate history specific to the patient's complaints of vaginal discharge, gastrointestinal problems and dizziness; (2) failing to perform medically appropriate physical examination specific to the patient's complaints of vaginal discharge, gastrointestinal problems and dizziness; (3) failing to perform medically appropriate medical evaluation and appropriate diagnostic testing in a patient with several complaints including vaginal discharge, gastrointestinal problems and dizziness; (4) making a diagnosis of chronic vaginitis and functional gastroenteritis without conducting a physical exam; (5) treating C.M. with antifungal medications without first examining the vaginal discharge to determine the etiology thereof; (6) repeatedly failing to attempt to determine the etiology of the patient's dizziness; (7) repeatedly failing to determine whether laboratory tests or neurological tests were necessary for evaluation of the dizziness of the patient; (8) repeatedly failing to order CBC tests to substantiate his impression that the patient's complaints stemmed from insufficient liver detoxification mechanisms or a depressed immune system; (9) respondent failing to list, as part of his assessment of the patient, additional medical problems he discovered upon obtaining the patient's history and performing a physical exam during the visit on August 26, 1996; (10) noting an abnormal neurological examination on or about August 26, 1996, when respondent described a questionably positive Romberg test, inability to stand on one foot, and hyperreflexia, but respondent failed to assess these signs, failed to repeat the examination, and failed to follow up on this possible neurological problem; (11) respondent noted diagnosed probable encephalopathy on the patient's visit on August 26, 1996, without any notation of changes in the mental status of the patient; (12) respondent diagnosed the patient to be suffering from mercury toxicity on or about December 19, 1996, even though the result of the laboratory the previous day indicated that the patient had a low range of mercury; (13) entering the patient in an experimental study to chelate mercury from her system even though the patient had a low range of mercury and did not show mercury toxicity; (14) failing to maintain clear and legible records on the patient during the period she participated in the experimental study to chelate mercury from her system; and (15) failing to maintain legible and coherent records on the patient's subsequent visits. (Accusation in MBC Case No. 04-1997-76214, at ¶¶ 7(A) through (O).)

12. Respondent maintains a medical practice called "Environmental Medical Center of Orange," where he practices alternative or complementary medicine. Respondent first saw patient J.S., at his medical offices on October 30, 2009, when she sought care and treatment from him for her menopausal symptoms, including heavy bleeding. Patient J.S., approximately 52 years old and 95 pounds, told respondent she was sensitive to medications and that she easily became nauseous and gaseous. She reported that she was also being treated by a Chinese acupuncturist who was providing her with herbal treatments. Respondent reviewed lab work she provided. Respondent prescribed chewable iron. He ordered lab work to check her hormone levels and to have her tested for food sensitivities, and asked to see her back in a few weeks. His working diagnosis was "menopausal" and he considered her hormones imbalanced.

13. Patient J.S. met again with respondent on November 16, 2009. Respondent discussed her testing results and prescribed progesterone in capsule and cream. He asked her to take DHEA[2] 5 mg, a small amount, each morning. He also recommended progesterone in cream and capsule form, 50 mg per day.

14. When patient J.S. saw respondent on December 30, 2009, she told respondent that the DHEA was causing her severe headaches and she was only taking one-third dosage. He told her to discontinue taking the DHEA. He ordered additional labs to check her hormone levels. He interpreted the results as showing she was still not completely menopausal, but that her hormones were becoming more regulated.

15. On or about January 18, 2010, respondent decided to conduct hair follicle testing to assess patient J.S.'s heavy metal burden. Respondent felt the patient had heavy metal sensitivity or toxicity. Respondent referred patient J.S. to respondent's allergy technician to see if the patient was sensitive to her own hormones.

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[2] DHEA, "Dehydroepiandrosterone," is a steroid hormone naturally produced in the body. DHEA is legal to sell in the United States as a dietary supplement. It is currently grandfathered in as an "Old Dietary Ingredient" being on sale prior to 1994. DHEA is specifically exempted from the Anabolic Steroid Control Act of 1990 and 2004.

16. On or about March 8, 2010, respondent decided that patient J.S. had a progesterone sensitivity and wondered if she needed an antigen to address a problem with heavy metal overload. He asked her to take certain laboratory tests, including a DMPS[3] "challenge test" to determine if the level of mercury in her body was too high. Respondent also felt it was the best chelating agent for mercury. The "challenge test" involved giving the DMPS intravenously, collecting all urine for six hours and sending it to a laboratory in Chicago. Respondent felt that because patient J.S. had worked in a dental office and had fillings, she could have a high mercury exposure that interfered with her metabolism. The patient declined to take the DMPS challenge test.

17. Respondent ordered laboratory tests, including kidney function, liver function, thyroid, iron balance and serum hormones, but only to be taken sometime in the future. Patient J.S. made an appointment to have the challenge test done in April, but she cancelled that appointment.

18. On or about May 7, 2010, patient J.S. returned to see respondent. Respondent still questioned if patient J.S. had heavy metal toxicity or was hypothyroid. Respondent charted that the patient was speaking very slowly and appeared lethargic. Respondent ordered more labs and recommended patient J.S. take DMSA,[4] also known as Captomer, another heavy metal chelating agent prescribed for metal toxicity, but unlike DMPS, Captomer is taken orally.

19. Patient J.S. had still not taken any of the basic laboratory tests[5] ordered for the "future," and respondent still did not know the patient's beginning mercury level nor her

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[3] DMPS, also known as Dimovol, is used as a treatment for heavy metal intoxication, specifically mercury, arsenic and lead. Side effects of DMPS can be temporary and usually subside with discontinuation of treatment. DMPS is considered an experimental drug in the United States and is not FDA approved.

[4] DMSA (also known as meso 2, 3-dimercaptosuccinic acid) was contained in the Captomer that was manufactured by Thorne Research, Inc., and sold over-the-counter by respondent to patient J.S.

[5] A publication by Thorne Research, Inc., the manufacturer of Captomer, states that "[b]efore initiating a heavy metal challenge with DMSA, the physician should be assured that the patient has sufficient creatine clearance to handle heavy metal excretion via the kidneys, as this is the primary route of elimination of heavy metals bound to DMSA." (Thorne Research Detoxification Practitioner Guide ["Detox Booklet"], at p.11.) In the Detox Booklet, practitioners (continued...)

beginning liver or kidney levels when he prescribed the Captomer. Respondent did not give the patient written instructions or adequate verbal instructions on how to take Captomer for chelation. While respondent charted that the patient was to take Captomer on Saturday and Sunday; he did not tell the patient exactly how to do this; he did not give her an exact dose, when to take it (or them), how many weekends to take it (or them). Respondent did not advise the patient how to determine if the Captomer was working or how to determine if she needed to be seen before the next month. Respondent's verbal instructions, if any, were confusing and not charted.

20. Respondent advised patient J.S. to return in a month and they would discuss how she did on the Captomer. He instructed the patient to return to her gynecologist.

21. Respondent sold patient J.S. a 45 pill bottle of Captomer manufactured by Thorne Research. The front label of the Captomer bottle identified Captomer as a "Dietary Supplement." The back label of the Captomer bottle contained "Supplement Facts" which stated, among other things, that each 65 mg capsule of Captomer contained "Succinic Acid (from 100 mg DMSA)." Respondent incorrectly charted in the Supplements List in patient J.S.'s medical record that each tablet was 50 mg.

22. Captomer can have deleterious side effects if the dose taken is too large for the patient, if the patient is not appropriately monitored, or if the patient is not replenishing the nutrients depleted by chelation. The Federal Food and Drug Administration ("FDA") has sent warning letters to manufacturers and sellers who overstate the alleged benefits of their over-the-counter chelation products, some of which are marketed as "dietary supplements," and have warned consumers to avoid over-the-counter chelation products.[6]

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are advised for "Step 1" of heavy metal detoxification to "[p]erform a creatine clearance test prior to clearing of heaving metals" because "DMSA (Captomer) clears metal primarily through the kidneys, which can cause an increased burden on the kidneys." (*Id.*, at p.12.) Practitioners are also advised to "[h]ave patient take one capsule of Captomer before starting the process to ensure they don't have an immediate hypersensitivity to the sulfur." (*Ibid.*)

[6] The FDA has warned that "there are serious safety issues associated with chelation products, which can alter the level of certain substances in the blood. Even when used under medical supervision, these products can cause serious harm, including dehydration, kidney failure, and death." (FDA Press Release, October 14, 2010; see also, *FDA Warns Marketers of Unapproved Chelation Drugs* (FDA Consumer Update, October 2010).) The FDA has "advise[d] consumers to avoid non-prescription products offered for chelation or detoxification." (*Ibid.*)

23. Respondent failed to advise the patient of the risks involved with taking Captomer, including nausea and depleting the patient's own nutritional minerals. Respondent failed to tell patient J.S. that she needed to take supplementary minerals to prevent deleterious side effects. Respondent did not provide anything in writing addressing the risks and benefits of Captomer or have the patient sign an informed consent form regarding DMSA (Captomer). Respondent did not tell the patient to cease taking any Chinese herbs, or if he did tell her this, he failed to chart it.

24. The patient did not come back in for a subsequent evaluation on how the Captomer was working for her.

25. On or about June 30, 2010, patient J.S. called Respondent's office with complaints that she was not feeling well, including, but not limited to having an upset stomach and a lack of appetite. Respondent did not chart the specific symptoms reported by the patient but he felt the symptoms reflected a possible urinary tract infection (UTI.) Respondent did not instruct the patient to come in for an evaluation. Instead, he advised patient J.S. to get a urine analysis and he ordered the test.

26. Respondent received the urine analysis results on July 5, 2010. The results did not show a urinary tract infection, though respondent interpreted the results as being indicative of a UTI. Without conducting any in-person evaluation or prior examination, without inquiring about how the Captomer was working, determining if she was still taking it, or considering that it might be related to her symptoms, on or about July 6, 2010, respondent advised the patient she had a bladder infection and he prescribed an antibiotic, Septra.

27. Patient J.S. continued to feel ill. She called her gastroenterologist, Dr. H.L. and went to Dr. H.L. for an evaluation. Dr. H.L. felt patient J.S. looked jaundiced and ordered tests. The next day, patient J.S. went to the emergency room at Hoag Memorial Hospital, where she was admitted, jaundiced and in liver failure.

28. On or about July 11, 2010, patient J.S. was transferred from Hoag Memorial Hospital to Cedars Sinai Hospital. The admission diagnosis was acute liver failure. Several of the consultation reports from Cedars Sinai Hospital identified Captomer as a potential cause of

patient J.S.'s liver failure and medical complications. Patient J.S. remained hospitalized and died on July 17, 2010. The cause of death was, in part, due to liver failure.

29. Respondent's medical records for patient J.S. are not legible and failed to adequately reflect the care and treatment he provided to patient J.S.

30. On or about April 29, 2011, Nippon Life Insurance Company sent respondent a release signed by the patient J.S.'s husband, T.S., requesting a copy of the patient's medical records to review Mr. T.S's claim for life insurance. Respondent's office staff could not find respondent's medical records for patient J.S. On or about April 29, 2011, respondent's Office Manager, E.W., sent the Life Insurance Company a fax indicating there were no records for patient J.S. However, when the Board requested patient J.S.'s medical records, respondent was able to locate the patient's records and they were produced to the Board on or about September 6, 2011. As of October 18, 2011, respondent still had not provided the patient's records to the insurance company.

31. Respondent committed gross negligence in his care and treatment of patient J.S. which included, but was not limited to, the following:

(a) Failing to obtain basic laboratories and surveillance laboratories including, but not limited to, a comprehensive chemical panel and/or other laboratories necessary to determine and/or monitor liver function, kidney function, mineral levels and/or whether patient J.S. was able to safely tolerate the Captomer that respondent recommended and sold to patient J.S.;

(b) Failing to appropriately counsel J.S. about the potential risks, benefits and/or dietary concerns associated with Captomer; and failing to discuss the potential risks associated with Chinese herbs and any potential contraindications and/or adverse interactions with Captomer; and

(c) Failing to maintain adequate and accurate medical records regarding his care and treatment of patient J.S. including, but not limited to, illegible and incomplete medical documentation; failing to document the potential risks, benefits and/or dietary concerns associated with Captomer; failing to document the potential risks associated with Chinese herbs and any

potential contraindications and/or adverse interactions with Captomer; improperly listing the Captomer recommended and sold by respondent as 50 mg instead of the correct amount of 65 mg; failing to properly list the date and source of information for the alleged statement that patient J.S. stopped taking Captomer after only 2-3 pills; failing to document patient J.S.'s symptoms related to ordering prescribing medication for patient J.S.'s alleged urinary tract infection; and failing to locate patient J.S.'s medical records after they were requested by Nippon Life Insurance Company of America and, thereafter, failing to provide a copy of patient J.S.'s medical records to Nippon Life Insurance Company of America.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

32. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of patient J.S. as more particularly alleged in Paragraphs 11 through 31, above, which are hereby incorporated herein by reference.

33. Respondent committed repeated negligent acts in his care and treatment of patient S.A. which included, but was not limited to, the following:

(a) Failing to obtain basic laboratories and surveillance laboratories including, but not limited to, a comprehensive chemical panel and/or other laboratories necessary to determine and/or monitor liver function, kidney function, mineral levels and/or whether patient J.S. was able to safely tolerate the Captomer that respondent recommended and sold to patient J.S.;

(b) Failing to appropriately counsel J.S. about the potential risks, benefits and/or dietary concerns associated with Captomer; and failing to discuss the potential risks associated with Chinese herbs and any potential contraindications and/or adverse interactions with Captomer; and

(c) Failing to maintain adequate and accurate medical records regarding his care and treatment of patient J.S. including, but not limited to, illegible and incomplete medical documentation; failing to document the potential risks, benefits and/or dietary concerns

associated with Captomer; failing to document the potential risks associated with Chinese herbs and any potential contraindications and/or adverse interactions with Captomer; improperly listing the Captomer recommended and sold by respondent as 50 mg instead of the correct amount of 65 mg; failing to properly list the date and source of information for the alleged statement that patient J.S. stopped taking Captomer after only 2-3 pills; failing to document patient J.S.'s symptoms related to ordering prescribing medication for patient J.S.'s alleged urinary tract infection; and failing to locate patient J.S.'s medical records after they were requested by Nippon Life Insurance Company of America and, thereafter, failing to provide a copy of patient J.S.'s medical records to Nippon Life Insurance Company of America.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

34. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266 of the Code, in that he failed to maintain adequate and accurate records of his care, treatment and management of patient J.S., as more particularly alleged in paragraphs 11 through 33, above, which are incorporated herein by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Release Medical Records Upon Request)

35. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by Health and Safety Code section 123110, in that he failed to release patient J.S.'s medical records to Nippon Life Insurance Company of America following receipt of an appropriate release, as more particularly alleged in paragraph 30, above, which is incorporated herein by reference and realleged as if fully set forth herein.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G18070, heretofore issued to respondent Ronald Wempen, M.D.;

2. Revoking, suspending or denying approval of respondent Ronald Wempen, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering respondent Ronald Wempen, M.D. to pay the Board, if placed on probation, the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: April 10, 2013

LINDA K. WHITNEY
Executive Director,
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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